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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,403	12/05/2005	Hiroaki Dei	Q89586	9930
23373	7590	08/25/2009	EXAMINER	
SUGHRIUE MION, PLLC			SAINT CYR, JEAN D	
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			2425	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/544,403	<b>Applicant(s)</b> DEI, HIROAKI
	<b>Examiner</b> JEAN D. SAINT CYR	<b>Art Unit</b> 2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 June 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,12,14,25,35 and 44 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,12,14,25,35 and 44 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 December 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

#### **Continued Examination Under 37 CFR 1.114.**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/12/2009 has been entered.

#### **Double Patenting**

Claims 1 and 44 are provisionally rejected on the ground of nonstatutory double patenting over claim24 of copending Application No. 10546448. This is a provisional double patenting rejection since the conflicting claims have not yet been patented

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: claims 1, 44 are obvious variants and encompassed by claim 24 of the application' 448'.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Sato et al, US Patent No. 6895216.

Re claim 25, Sato et al disclose distributing, by said video data distribution device, video encoded data of the same video, but having different compression ratios (When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20); and

controlling the quality of a video received by a receiver by changing session information notified according to the receiver(a wireless terminal that cannot attain sufficient reception quality at a high transmission rate can choose to receive the multicast information delivered at a low transmission rate, col.2, lines 56-59; col.3, lines 26-36; the information delivery control unit 24 compresses the multicast information in accordance with the selected transmission rate, col.11, lines 57-59; that means every single transmission rate is associated with a specific compression rate); wherein

at least one session of distribution is transmitted in multicast or broadcast (transmit the plurality of sets of multicast information, col.3, lines 36-37).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,12, 14, 35, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al in view of Mourad et al, US No.20030135464 .

Re claim 1, Sato et al disclose means for multicast or broadcast distributing video encoded data of the same video, but having different compression ratios (The information delivery control unit 24 carries out a predetermined algorithm to compress multicast information stored in the multicast information storage unit 22 so as to achieve the selected compression rate CR. The multicast information compressed in this manner is then delivered from the transceiver 21 to the wireless terminals,col.12, lines 6-11); and

means for selecting a session of multicast or broadcast distribution according to the compression ratio(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20).

But did not explicitly disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive.

However, Mourad et al disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive(The user can select high quality downloadable Content 113,0952; licensing authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license,0168).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Sato in introducing selection of contents based in licensing authorization, as taught by Mourad, for the purpose of user to access contents according to some predefined authorization.

Re claim 12, Sato et al disclose means for receiving session information notified by a video data distribution device(receives one of sets of the multicast information sent from the information delivery apparatus by using transmission conditions selected based on the measured reception quality, col.4, lines 32-34)

means for receiving video encoded data distributed by a video data distribution device based on said session information, and selecting video encoded data from encoded data(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20);

means for decoding video encoded data selected (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56).

But did not explicitly received normally based on the video quality and/or the compression ratio the video data reception device is authorized to receive.

However, Mourad et al disclose received normally based on the video quality and/or the compression ratio the video data reception device is authorized to receive (The user can select high quality downloadable Content 113,0952; licensing authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license,0168).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Sato in introducing selection of contents based in licensing authorization, as taught by Mourad, for the purpose of user to access contents according to some predefined authorization.

Re claim 14, Sato et al disclose a video data distribution device distributing video data, and a video data reception device receiving video data distributed by said video data distribution device (col.2, lines 56-59); wherein said video data distribution device comprises means for selecting a session of distribution according to the compression ratio when it distributes video encoded data of the same video, but having different compression ratios(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20), and for at least one session of distribution transmission is performed by multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37).

But did not explicitly disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive.

However, Mourad et al disclose wherein the selection is based on a quality of the video encoded data a receiver is authorized to receive(The user can select high quality downloadable Content 113,0952; licensing authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license,0168).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Sato in introducing selection of contents based in licensing authorization, as taught by Mourad, for the purpose of user to access contents according to some predefined authorization.

Re claim 35, Sato et al disclose a program having a computer constituting a video data distribution device execute the following processing steps: the steps comprising: distributing video encoded data of the same video, but having different compression ratios(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20),

transmitting at least one session of distribution in multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37).

But did not explicitly disclose controlling the quality of a video received by a receiver by changing session information notified according to video quality the receiver is authorized to receive.

However, Mourad et al disclose controlling the quality of a video received by a receiver by changing session information notified according to video quality the receiver is authorized to receive(The user can select high quality downloadable Content 113,0952; licensing authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license,0168).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Sato in introducing selection of contents based in licensing authorization, as taught by Mourad, for the purpose of user to access contents according to some predefined authorization.

Re claim 44, a video data distribution device, a video data reception device, and a transmission path for transmitting information from said video data distribution device to said video data reception device(an information delivery apparatus for delivering multicast information to wireless terminals through wireless routes, col.4,lines 19-21); wherein

said video data distribution device comprises; means for distributing multiple video encoded data of the same video, but having different compression ratios in multiple different sessions (The information delivery control unit 24 carries out a predetermined algorithm to compress multicast information stored in the multicast information storage unit 22 so as to achieve the selected compression rate CR. The multicast information

compressed in this manner is then delivered from the transceiver 21 to the wireless terminals,col.12, lines 6-11) ; and

means for notifying information (notifying the information delivery apparatus of measured results of the reception quality, col.3, lines 26-36);provided that at least one session of distribution is transmitted in multicast or broadcast(transmit the plurality of sets of multicast information, col.3, lines 36-37) ;

and said video data reception device comprises; means for receiving video encoded data distributed in at least one session based on session information notified by said video data distribution device(compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20);

means for selecting data from received video encoded data based on the video quality and/or the compression ratio, and reconstructing it into one piece of video encoded data(When an optimum compression rate needs to be selected from a plurality of pre-selected compression rates, col.12, lines 19-20); and

means for decoding reconstructed video encoded data (decode the received signal based on the demodulation scheme corresponding to the 16 QAM modulation scheme, col.10, lines 55-56).

But did not explicitly disclose including information on a session permitted to be distributed and/or a video quality permitted to be received to said video data reception device.

However, Mourad et al disclose including information on a session permitted to be distributed and/or a video quality permitted to be received to said video data reception device(The user can select high quality downloadable Content 113,0952; licensing

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authorization and control so that content is unlocked only by authorized intermediate or End-User(s) that have secured a license,0168).

It would have been obvious for any person of ordinary skill in the art at that time the invention was made to combine the invention of Sato in introducing selection of contents based in licensing authorization, as taught by Mourad, for the purpose of allowing the system to distribute contents to a reception device according to some predefined authorization.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean Duclos Saintcyr whose phone number is 571-270-3224. The examiner can normally reach on M-F 7:30-5:00 PM EST.If attempts to reach the examiner by telephone are not successful, his supervisor, Brian Pendleton, can be reach on 571-272-7527. The fax number for the organization where the application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197(toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, dial 800-786-9199(IN USA OR CANADA) or 571-272-1000.

/Jean Duclos Saintcyr /

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2425